IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 481 of 2003
And
CIVIL APPLICATION No.2515 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DINESHBHAI GOVINDBHAI MISTRY

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 481 of 2003
MR ANANT S DAVE for Petitioner No. 1
MR DAGLI, AGP for Respondent No. 1
RULE SERVED BY DS for Respondent No. 2
MR MUKUL SINHA for Respondent No. 3-6

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/04/2003

ORAL JUDGEMENT

#. With the consent of the parties, the matter is taken up for final hearing today.

#. By filing this petition, the petitioner, who is serving as Assistant Conservator of Forest, has challenged the provisional seniority list of Assistant Conservator of Forests, which is at Annexure-A, prepared by the Department. According to the petitioner, the provisional seniority list prepared by the Department for the cadre of Assistant Conservator of Forest by Government Resolution dated 5.5.2000 is arbitrary, illegal and contrary to law. It is prayed that the respondents may be restrained from operating the said provisional seniority list of Assistant Conservator of Forests. This Court (Coram: Jayant Patel,J) while admitting this petition on 24.2.2003 passed the interim order, by which, the Department is restrained from changing the position of the petitioner and it is ordered that the petitioner should not be treated as junior to one Mr.N.M.Joshi, N.P.Majmudar, M.A.Chavda, T.I.Vasava, B.I.Patel and deceased S.A.Shaikh so far as the cadre of Range Forest Officers is concerned.

#. Mr.Mukul Sinha has preferred Civil Application No.2515 of 2003 on behalf of three employees, viz., N.P.Majmudar, M.A.Chavda, and B.I.Patel for vacating the said interim relief.

#. Mr.Dave, learned advocate, who is appearing for the original petitioner, has vehemently argued that in view of the order of this Court (Coram: M.S.Shah,J) in Special Civil Application No.6325 of 1994 and other cognate matters, seniority of the petitioner was required to be fixed appropriately in the cadre of Range Forest Officers and this Court has given certain directions for preparing a fresh seniority list of Range Forest Officers as on 6.3.1993 on the basis of the Gujarat Forest Department (Forest Officers Examination) Rules, 1972 as amended by the Government notification dated 6.3.1993. It is declared by this Court that such seniority list shall cover all the employees holding the posts of Range Forest Officer (previously designated as Rangers) as on 6.3.1993. Subsequently, in this petition the grievance of the petitioner is in connection with the provisional seniority list prepared by the Department for the cadre of Assistant Conservator of Forests. The grievance of the petitioner is that, his name was required to be shown at the appropriate place considering his seniority in the seniority list of Range Forest Officers. This Court

while admitting the matter has protected the said seniority of the petitioner. It is submitted by Mr.Dave that while finalising the seniority list the Department should consider the directions given by this Court (Coram: M.S.Shah,J) in Special Civil Application No. 6325 of 1994 and other cognate matters, and the name of the petitioner may be appropriately shown in the final seniority list of Assistant Conservator of Forests.

#. Mr.Sinha, who is appearing for the other set of employees, has vehemently argued that the present petitioner has accepted his deemed date of promotion as Assistant Conservator of Forest with effect form 1988, and, therefore, his name can be shown in the cadre of Assistant Conservator of Forests from the aforesaid year, i.e. the year in which he has been given the deemed date and not from the earlier date. He, therefore, submitted that, provisional seniority list is properly prepared by the Department.

#. However, without deciding all these points at this stage, since the Department is yet to finalise the final seniority list, appropriate direction is required to be given to the Government to finalise the seniority list of Assistant Conservator of Forests as early as possibly and latest by 30.8.2003. While preparing the final seniority list, the Department will also taken into account the objections of the petitioner as well as the objections of the other set of employees, if any, and such seniority list may be finalised in accordance with law and considering the relevant Rules and Regulations as well as the material on record. It is for the Department to consider the effect of the judgment of this Court (Coram: M.S.Shah,J) given in Special Civil Application No.6325 of 1994 and other cognate matters, and, ultimately, after considering the facts and circumstances of the case and after considering the objections of the petitioner as well as the objections of the other employees, the final seniority list is to be prepared without any further delay and within the stipulated time, as indicated above. After finalisation of the said seniority list, if the petitioner or even if the respondents have any grievance, it is always open for them to challenge the same in accordance with law.

#. In view of the aforesaid direction, Mr.Dave wants to withdraw this petition. Permission is granted. The petition stands disposed of as withdrawn subject to what is stated above. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated. Copy of the writ of this order be sent to the Government

forthwith for implementing the same and for finalising the seniority list accordingly.

#. In view of the above order, Civil Application stands disposed of accordingly.

(P.B.Majmudar,J)
(pathan)